

**REMARKS**

Claims 1, 5-8, 10-11, 13, 15, 17-20, 22-24 and 41-51 are currently pending in this application. No new matter has been added. Claims 1, 13, 20, 42, and 49 are independent. Reconsideration and allowance of the subject application is respectfully requested.

Claims 1, 5, 6, 8, 10, 13, 15, 17, 19, 20, 22, 42, 43, 47 and 50 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sako (WO 02/37493) in view of Ha (USP 7,028,011). Applicants respectfully traverse this rejection.

Initially, for the record, Applicants maintain the arguments of record previously submitted in the March 15, 2010 Amendment. However, for the sake of brevity, Applicants will address certain of the "Response to Arguments" made by the Examiner in the current Office Action.

In particular, claim 1 requires "disc identification information identifying a type of the computer readable medium and recorded in an area preceding the lead-in area." The Examiner has recognized that Sako fails to disclose or suggest this limitation, but argues that a combination of Sako in view of Ha provides the limitation, relying on Ha's teaching of sub-code track 33. In response, Applicants argued that Ha teaches that the disc identifier data in the sub-code track 33 will be the same for all discs manufactured in a specific lot or run of a manufacturing cycle, and that this data will be used for authentication/copy protection. (See column 5 of Ha). Accordingly, there is no teaching in Ha of "disc identification information identifying a **type** of the computer readable medium," as required by claim 1.

In response, the Examiner contends:

Sako in Column 17, lines 15-19 discloses that disc ID information, which identifies a disc type, is recorded in the TOC of a lead-in area. Ha is relied upon for the teaching of variable locations for said ID information, as discussed in pages 4-5 the Office Action dated 4/23/08 where Ha was introduced. Therefore, the combined teachings of Sako in view of Ha result in the argued limitation above.

(Pages 2-3 of the June 23, 2010 Final Office Action)

The so-called disk identifier data of Ha and the disk ID information of Sako are not the same information. In Sako, the disk ID information indicates whether the disk is single or double density and recording form. Sako teaches recording this information in the TOC. The disk identifier data in Ha is the same for all disks in a lot or run of a manufacturing cycle, and therefore is not unique to a particular disk. Also, the disk identifier data in Ha is used for authentication/copy protection.

One skilled in the art would not take the teachings in Ha of where to store authentication/copy protection information and apply that to storing single/double density and recording form information. While Sako and Ha use similar "disk identifier" terminology, that terminology applies to very different information having totally different purposes. As such, it is improper to contend that the placement of one type of information on a recording medium would inform one skilled in the art as to the placement of completely different information. Accordingly, one skilled in the art would not have combined the teachings of Ha with Sako as asserted in the Office Action. In view of the above, even assuming Ha was combined with Sako, the resulting combination fails to render claim 1 obvious to one skilled in the art.

Independent claims 13, 20 and 42 include similar limitations to those discussed above with respect to claim 1, and are patentable at least for the reasons stated above with respect to claim 1.

The remaining claims are patentable at least for depending on one of the above-discussed independent claims.

Applicants respectfully request that the Examiner withdraw this rejection.

Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to the claims as stated above, and further in view of Kuroda ('844). And, claims 11, 18, 23, 24, 41, 44-46, and 48 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims as stated above, and further in view of Official Notice.

Applicants respectfully traverse these 103 rejections. Applicants submit that these rejected dependent claims are allowable at least for depending from allowable base claims. In addition, Applicants submit that none of the cited references cure the deficiencies identified above with reference to Sako in view of Ha. Furthermore, while Applicants have not discussed the Examiner's Official Notice, that lack of discussion should not be construed as acquiescence by the Applicants.

Claims 49 and 51 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sako in view of Horimai (USP 5,563,872) and further in view of Ha. Applicants respectfully traverse this rejection.

Again, Applicants incorporate the arguments made in the Amendment filed March 15, 2010. In summary, Applicants argued Sako explicitly teaches away from wobbling pits "in a non-overlapping manner with respect to a central line of the wobbled pits," as recited in claim 49, and that it is a well-known tenet of U.S. Patent Law that where one reference teaches away from the asserted combination, such a combination would NOT have been obvious to one skilled in the art. Still further, Applicants argued that such a combination would destroy the purpose and intent behind the wobbling in Sako, which is also a well-known impermissible combination.

Accordingly, one skilled in the art would not have combined the teachings of Horimai with Sako; and Sako in view of Horimai, and Sako in view of Ha and Horimai, can not render claim 49 obvious to one skilled in the art.

In response, the Examiner contends that:

While Sako does disclose that the deflection of the pits should be within the allowable range defined in the CD standards, Sako does not disclose that the pits are restricted to be partially overlapping with the central line.

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Applicants respectfully disagree. As the Examiner recognizes, Sako requires that the deflection of the pits meet the CD standards. As a result, the pits in Sako will overlap the central line. To suggest otherwise, would destroy the purpose and intent of Sako in meeting the CD standards. Accordingly, for the reasons give above, and given in detail in the March 15, 2010 Amendment, one skilled in the art would not have combined the teachings of Horimai with Sako; and Sako in view of Horimai, and Sako in view of Ha and Horimai, can not render claim 49 obvious to one skilled in the art.

Still further the Examiner states:

Furthermore, the width of the pits, which are variable, has a direct impact on whether the pits overlap a central line with a given deflection amount. More specifically, pits with smaller widths are less likely to overlap a central line at a given deflection amount.

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As stated above, applying pits that do not overlap the central line to Sako, would destroy the purpose and intent of Sako in meeting the CD standards. Still further, Applicants respectfully submit the Examiner appears to be applying some form of "it might or could happen" standard in the above argument. However, the standard for obviousness under Section 103 is whether "it would have been" obvious to one skilled in the art.

Applicants respectfully request that the Examiner withdraw this art grounds of rejection.

**CONCLUSION**

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested.

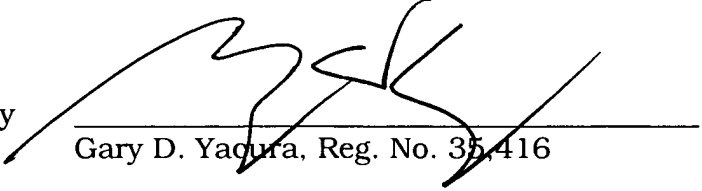
Should there be any outstanding matters that need to be resolved in the present application; the Examiner is respectfully requested to contact Gary D. Yacura, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

  
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